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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,771	11/03/2000	Michael F. Marlin		4378

7590

09/17/2002

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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 09/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary

Application No.

09/704,771

Applicant(s)

MARLIN, MICHAEL F.

Examiner

Bena Miller

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 26 and the first occurrence of claim 27 have been renumbered 25 and 26, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-24 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Starr.

Starr teaches in figures 1-6 most of the elements of the claimed invention, including a single unitary piece of material having memory (24), a coiled section (fig.5), and a handle section (22). However, Starr fails to teach the coiled section ranging in length from about two and three-quarter inches to about six inches and the coiled section's diameter ranging from about ¼ inch in diameter to about 1 inch. Starr teaches that the coil spring has an axial length and a coil diameter (col. 2, par. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made

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to use a coiled section having a length between the range of $2/3$ inches to about six inches and a diameter between $1/4$ inch to about 1 inch for the coiled toy of Starr for the purpose of making a metallic noise which is intriguing and attractive to the user in development of the cyclic bouncing operation (col. 1, par. 2).

Starr also fails to teach a handle section having a length between a range of about $3\frac{1}{2}$ inches to $6\frac{1}{2}$ inches. Starr teaches a handle section 22 that secures the spring thereto (col. 2, lines 1-3) having a particular length as shown in figure 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a handle section having a length between a range of about $3\frac{1}{2}$ inches to $6\frac{1}{2}$ inches for the toy of Starr for the purpose of providing a flat bouncing surface for the spring (col. 2, lines 1-3).

Claim 25 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Bidwell.

Starr teaches in the figures most of the elements of the claimed invention. However, Starr fails to teach words printed along the length of the coils. Bidwell teaches a spring member (fig.4) having a word ("graphic") printed thereon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply printed words as taught by Bidwell in the coiled section of Starr for the purpose of providing excitement when bouncing the spring.

Claims 26 and 27 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Molenaar.

Starr teaches in the figures most of the elements of the claimed invention. However, Starr fails to teach a colored coiled toy. Molenaar teaches in figures 1-7 a coil spring toy (12) having a line in a configuration of a figure 42 made of paint, ink or colored plastic material secured or applied to the toy (col. 5, par. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply color as taught by Molenaar to the coiled toy of Starr for the purpose of providing interest to the child when playing with the toy (col. 6, lines 13-16).

Regarding claim 27, Starr fails to teach a coiled toy that is plastic material. Molenaar teaches in figures 1-7 a coil spring toy (12) that is made of plastic material (col. 3, par. 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate plastic as taught by Starr for the coiled toy of Molenaar for the purpose of resisting permanent deformation (col. 4, par. 2).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

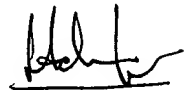
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643.

The examiner can normally be reached on Monday-Friday.

bbm
September 11, 2002



Jacob K. Ackun
Primary Examiner